

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Patrick L. Knueven,**

Petitioner-Appellant,

v.

**Polk County Board of Review,**

Respondent-Appellee.

**ORDER**

**Docket No. 09-77-1286  
Parcel No. 312/02105-032-000**

On July 22, 2010, the above-captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, Patrick L. Knueven, was self-represented. The Polk County Board of Review designated Assistant County Attorney David Hibbard as its legal representative. Neither party submitted any new evidence in addition to the certified record. The Appeal Board having reviewed the entire record, heard the testimony and being fully advised, finds:

***Findings of Fact***

Knueven is the owner of a residentially classified, single-family residence located at 8509 Prairie Avenue, Urbandale, Iowa. The property is a two-story home built in 1966, has 2088 square feet of total living area, and a 462 square-foot attached garage built. There is an 884 square-foot basement with no finish. The property also has 286 square feet of patio area. The site is 8610 square feet.

Knueven protested to the Polk County Board of Review regarding the 2009 assessment. The January 1, 2009, total assessment of Knueven's property was \$181,500 allocated as follows: \$40,200 in land value and \$141,300 in improvement value.

Knueven's claim was based on the following grounds: 1) that the assessment is not equitable as compared with the assessments of other like property in the taxing district under Iowa Code section 441.37(1)(a); 2) that the property is assessed for more than the value authorized by law under section under Iowa Code section 441.37(1)(b); 3) that there is an error in the assessment under section 441.37(1)(c), asserting the error is over-assessment; and 4) that there has been a downward change since the last assessment under sections 441.37(1) and 441.35. The Board of Review denied Knueven's protest.

In his appeal to this Board, Knueven marked the grounds indicating: 1) that the assessment is not equitable as compared with assessments of other like property under section 441.37(1)(a); 2) that there is an error in the assessment; and, 3) there has been a downward change in value. Knueven's plain statement asserted the property was over assessed. The claimed error is related to the property being assessed for more than authorized by law. In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider either error or downward change as separate claims. We will consider the claims of inequity and over-assessment.

To the Board of Review, Knueven offered the sale of a property across the street from his as evidence of inequity. The property located at 8508 Prairie Avenue, Urbandale, Iowa, sold in December 2008 for \$115,000.

In his appeal to this Board, Knueven did not offer any new evidence in support of his assertion the subject property is inequitably assessed and over-assessed. Knueven testified the property across the street, 8508 Prairie Avenue, is only 115 square feet smaller than his property yet the assessed value is \$66,500 less than his assessed value. Knueven did not provide the property record card of 8508 Prairie Avenue. However, he asserts this property, in addition to being of similar size, has a similar

grade to his property, features a wood deck compared to his concrete patio and also features an in-ground pool. We find substantial evidence is missing from Knueven's testimony, specifically in regards to the condition of the property, as well as the transaction details. The Board of Review's appraiser summary indicates some details about the property submitted by Knueven. According to a brief spreadsheet, the property was an arm's length transfer, however is rated in below-normal condition and has only 1357 square feet of living area compared to Knueven's living area of 2088 square feet.

The Board of Review dismissed this property as a comparable because it is a split-foyer style home compared to the two-story style of the subject property. Knueven is comparing the total finished area of 8508 Prairie Avenue (which includes basement finish) to the total gross living area (GLA) of the subject property. We do not consider this comparison typical in valuation of residential property.

The Board of Review relied upon an appraiser analysis completed by the Polk County Assessor's office in making their decision. The appraiser analysis considered five comparable properties, all of which sold from April 2008 to November 2008. The sales prices ranged from \$162,000 to \$195,500. All are similar two-story homes ranging in GLA from 1617 to 2036 square feet. The average GLA of the five properties considered is roughly 1800 square feet compared to the subject's 2088 square feet. The adjusted sales prices of these five properties submitted as comparable ranges from \$178,000 to \$203,000 (rounded), with an average adjusted sales price of \$192,000 (rounded). Although the average size of the comparables is smaller than the subject, the average adjusted sale indicates a value higher than the subject's 2009 assessment of \$181,500.

The Board of Review offered no new evidence to this Board, and relied solely upon the certified record.



After reviewing all the evidence, we find insufficient evidence has been presented to support Knueven's assertion the subject property is inequitably assessed compared to other like properties, or that it is assessed for more than authorized by law.

### *Conclusions of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the*

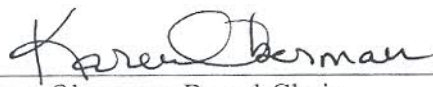
*City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). Additionally, the Iowa Supreme Court has interpreted “representative number of comparable properties” to be more than one property. *Maxwell v. Shriver*, 257 Iowa 575, 581, 133 N.W.2d 709, 712 (1965). This “statutory requirement is both a jurisdictional prerequisite and an evidentiary requirement for bringing a claim of inequitable or discriminatory assessment before the board.” *Montgomery Ward Dev. Corp. by Ad Valorem Tax, Inc. v. Cedar Rapids Bd. of Review*, 488 N.W.2d 436, 441 (Iowa 1992). Furthermore, the word “shall” as used in the statute makes the listing of comparable properties mandatory as failing to do so would “directly frustrate[] the sole function of the requirement, which is to enable the board to make a preliminary determination on the matter of equitability of assessment.” *Id.* Knueven offered only a single property for equity comparison, and failed to demonstrate inequity with that single property.

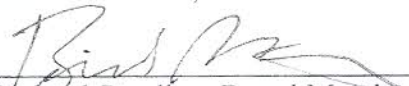
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Knueven failed to offer any sales or market data to support his assertion the subject property is assessed for more than authorized by law. The Board of Review provided an appraiser analysis in the certified record which supports the January 1, 2009 assessment.

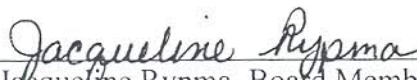
In the opinion of the Appeal Board, the evidence does not support the claim that the property is assessed for more than the value authorized by Iowa Code section 441.21. Therefore, we affirm the January 1, 2009, assessment of the property located at 8509 Prairie Avenue, Urbandale, Iowa, as determined by the Polk County Board of Review.

THE APPEAL BOARD ORDERS the assessment of 8509 Prairie Avenue, Urbandale, Iowa, as of January 1, 2009, set by the Polk County Board of Review, is affirmed.

Dated this 31<sup>st</sup> day of August, 2010

  
Karen Oberman, Board Chair

  
Richard Stradley, Board Member

  
Jacqueline Rypma, Board Member

Cc:

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APPELLANT

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ATTORNEY FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>8/31</u> , 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
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